



## **INDUSTRIAL SPECIAL INDEMNITY FUND**

### **Second Quarter Report June 30, 2003 Calendar Year 2003**

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# **State of Idaho** **INDUSTRIAL SPECIAL INDEMNITY FUND**

## **SECOND QUARTER REPORT - CALENDAR YEAR 2003**

The Industrial Special Indemnity Fund (ISIF) files its Second Quarter Report for calendar year 2003 pursuant to Idaho Code §72-324. This report consists of the following chapters: Benefits, Claims Adjudication and Administrative Operations.

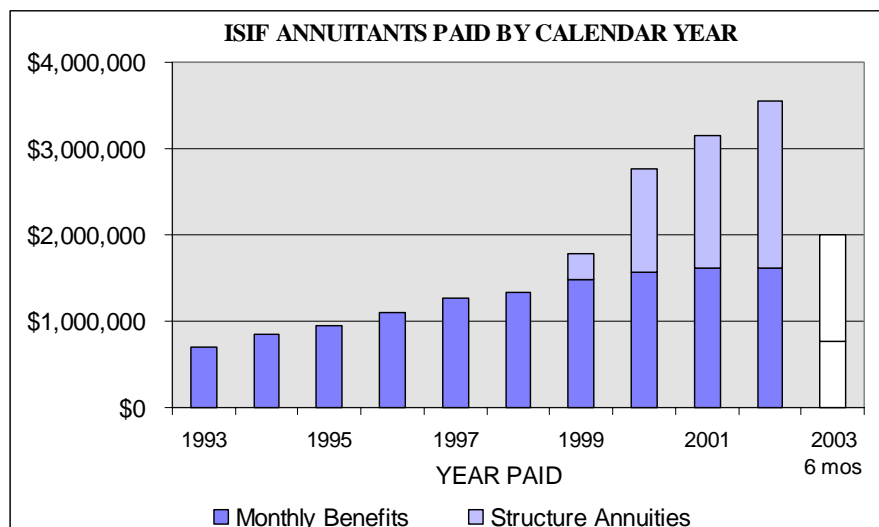
### **BENEFITS**

#### *Annuitant Periodic Benefits*

Annuitant benefits are paid to individuals who have been awarded or have negotiated a settlement for periodic monthly benefits. Benefits are paid based on a percentage of the applicable state average weekly wage for year of benefit, the year of the injury and the injured worker's average weekly wage. Most annuitant benefits are also subject to the Carey formula, which apportions total and permanent disability benefits between the Industrial Special Indemnity Fund and the employer/surety. Annuitant benefits generally are paid for life. The 2003 state statutory rates for annuitant benefits are as follows:

2003 STATE AVERAGE WEEKLY WAGE	
Base of 45% state average weekly wage =	\$237.15
Base of 60% state average weekly wage =	\$316.20
Base of 67% state average weekly wage =	\$353.09

ISIF has 115 annuitants who have received \$770,844 in monthly benefits year to date 2003. Total annuitant benefits paid in calendar year 2002 were \$3,564,437, including the purchase of structure settlements for eight annuitant claims. Six structure policies were purchased year to date 2003 totaling \$1,228,8213. Structure annuities have been utilized the prior four years as means to fund future annuitant monthly benefits as shown by the graph below.



An arrearage benefit may be owed at the conclusion of a claim and prior to the commencement of current monthly benefits. An arrearage is most likely to occur on judgment loss or consent of entry of judgment claims. Arrearage benefits totaling \$8,093 were paid in 2002. Arrearage benefits paid year to date in 2003 total \$11,704.

<b>MONTHLY &amp; ARREARAGE BENEFIT</b>			
CALENDAR YEAR			
	2003 YTD	2002 YTD	2002 Total
Monthly Benefit	\$1,999,665	\$2,265,711	\$3,556,744
Arrearage Benefit	11,704	-	8,093
Total Benefit	\$2,011,369	\$2,265,711	\$3,564,837

### *Settlement Benefits*

Lump sum and lump sum/statutory benefits are the two types of settlement options. Lump sum benefits are one time only cash payments issued upon settlement of a claim. Lump sum/statutory benefits are settlements in which a lump sum payment may be made upon settlement; however, some form of future periodic benefit will also be paid.

Future periodic benefits vary in amount and time frame depending upon the terms of settlement. Generally, the periodic payments are based on a percentage of the state's average weekly wage for year of benefit and paid monthly for the life of the claimant. Lump sum/statutory benefit settlements represent substantial lifetime benefits.

<b>LUMP SUM BENEFIT</b>		
CALENDAR YEAR		
	2003 YTD	2002 YTD
No. Claims	17	24
Total Lump Sum	\$529,500	\$543,000

The average lump sum benefit paid per claim year to date in calendar year 2003 is \$31,147. Twenty-six claims were closed with lump sum benefits in calendar year 2002 totaling \$1,063,500. The average lump sum benefit in 2002 was \$23,120.

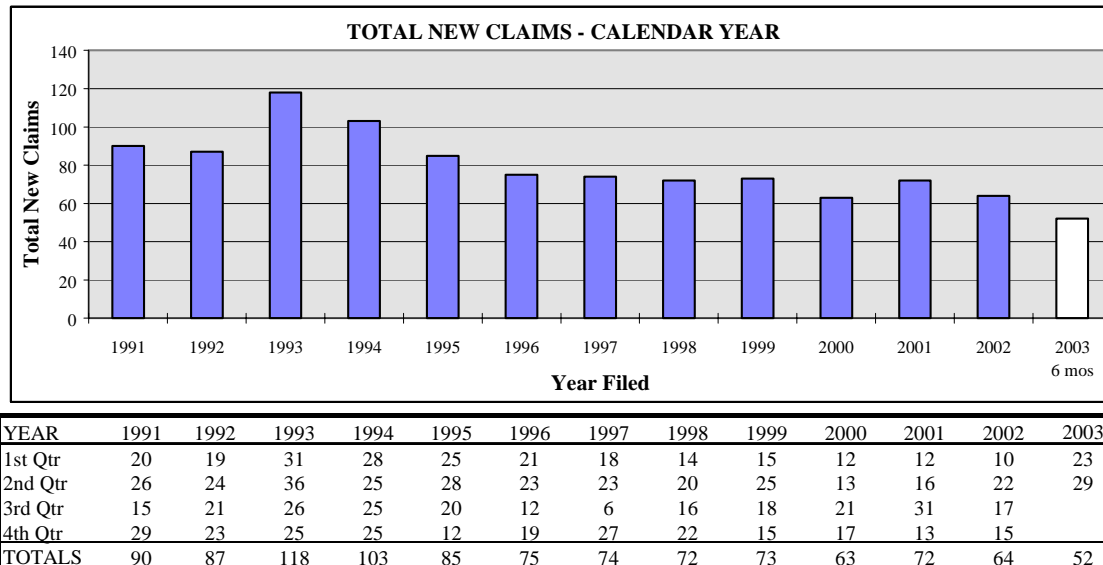
Two claims were closed by lump sum/statutory benefit during calendar year 2002. There have been no claims closed by lump sum/statutory benefit in 2003 year to date.

Judgment loss decisions by the Industrial Commission result in additional annuitant claims receiving future periodic payments. Benefits for judgment loss claims are based on a percentage of the state's average weekly wage and are paid for life with annual increases. The Industrial Special Indemnity Fund received three judgment loss decisions in calendar year 2002, and one year to date in 2003.

## CLAIMS ADJUDICATION

Claims adjudication is a two-fold process involving both the filing of formal or informal claims by claimants and/or employer/sureties alleging Industrial Special Indemnity Fund liability, and the final determination of those claims by result outcomes (non-merit, settlement or judgment loss).

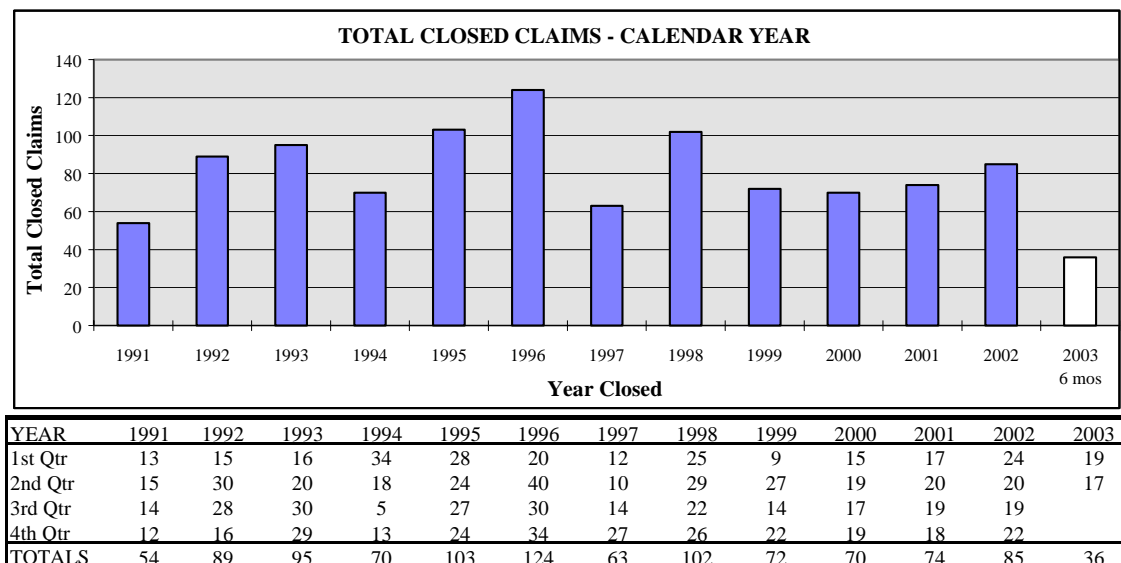
### *New Claim Filings*



### *New*

claim filings have stabilized over the past six years averaging over 70 filings per year. However, 2003 new claim filings are substantially higher than in previous years. In general, these new claims represent potentially higher liability as workers compensation claims become more complex legally and medically, with economic downturns creating more difficult return to work issues.

### *Closed Claims*



During the second quarter of calendar year 2003, 52 claims were opened and 36 claims were closed resulting in a net of 70 open litigated claims as of June 30, 2003.

## Result Outcomes

The result outcome category, the number of claims closed by each result outcome, and the percentage of claims closed in each result category is shown below. In 2003 year to date, non-merit and settled claims account for 97% of the total closed claims. For 2002, settled claims and non-merit claims accounted for 96% of the total closed claims. These percentages follow very closely the same result percentages of previous years. Total litigation costs represent the average defense expense of a claim by result outcome category.

<b>RESULT OUTCOMES</b>					
	2003 YTD	% Total	2002 YTD	2002 Total	% Total
<b>Non-merit Claims:</b>	No.		No.	No.	
Dis W/O	2	5%	4	6	7%
Dis W/P	1	3%		1	1%
Judg Win	2	5%	4	6	7%
Denied	15	39%	9	18	21%
<b>Settled Claims:</b>					
LSS	17	45%	24	46	54%
LSS/Stat Bens			1	2	2%
<b>Judgment Loss:</b>					
Judg Loss	1	3%		3	4%
<b>Other:</b>					
Appeal - Affirmed			2	3	4%
Appeal - Reversed					

<b>RESULT OUTCOMES DEFINITION</b>
<p><b>Non-merit Claims</b></p> <ul style="list-style-type: none"> <li>* Dismissal without Prejudice - Dismissal by the Industrial Commission but allows the claimant to sue again on the same cause of action.</li> <li>* Dismissal with Prejudice - Final disposition of a claim by the Industrial Commission barring the right to bring another claim on the same cause.</li> <li>* Judgment Win - Final decision by the Industrial Commission on a fully litigated claim determining no liability to the ISIF.</li> <li>* Denied - An in-house denial of ISIF liability.</li> </ul> <p><b>Settled Claims</b></p> <ul style="list-style-type: none"> <li>* LSS - Lump sum settlement agreement.</li> <li>* LSS/Stat Bens - Lump sum settlement that includes monthly benefits to be paid in the future.</li> </ul> <p><b>Judgment Loss</b></p> <ul style="list-style-type: none"> <li>* Judgment Loss - Final decision by the Industrial Commission on a fully litigated claim determining ISIF to have liability.</li> </ul> <p><b>Appeal Affirmed</b></p> <ul style="list-style-type: none"> <li>* Appeal from the Industrial Commission decision affirmed by the State Supreme Court.</li> </ul> <p><b>Appeal Reversed</b></p> <ul style="list-style-type: none"> <li>* Appeal from the Industrial Commission decision reversed by the State Supreme Court.</li> </ul>

## LITIGATION COSTS ASSOCIATED WITH SETTLEMENT & JUDGMENT LOSS CLAIMS

TOTAL LITIGATION COST BY RESULT OUTCOME						
	LUMP SUM		LSS WITH STAT BEN		JUDGMENT LOSS	
	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost
1995	47	210,418	10	97,099	2	49,872
1996	54	314,303	12	86,733	6	53,668
1997	32	237,894	7	25,676	2	28,676
1998	5	212,409	9	45,657	2	30,308
1999	31	111,326	4	33,085	3	82,207
2000	23	93,595	3	4,786	2	34,101
2001	31	193,216	2	5,347	1	11,870
2002	46	66,737	2	8,115	3	43,238
TOTAL	269	\$1,439,898	49	\$306,497	21	\$333,940
AVERAGE CLAIM COST BY RESULT		\$5,353				\$15,902
YTD 2003	17	\$53,812	0	\$0	1	\$14,473
AVERAGE CLAIM COST BY RESULT		\$3,165				\$14,473

## LITIGATION COSTS ASSOCIATED WITH NON-MERIT CLAIMS

TOTAL LITIGATION COST BY RESULT OUTCOME								
	DIS W/O		DIS W/P		DENIED		JUDGE W	
	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost	Number Claims	Litigation Cost
1995	21	108,818	1	2,929	11	6,374	4	58,350
1996	16	42,762	0	0	10	16,710	19	350,925
1997	6	22,195	0	0	7	195	7	169,624
1998	17	91,848	2	30,033	21	16,790	12	191,583
1999	8	46,441	0	0	12	14,320	12	192,003
2000	5	46,220	2	13,384	21	2,636	8	175,166
2001	4	28,206	1	7,313	19	1,466	9	161,758
2002	6	61,369	1	13,768	18	3,060	6	135,022
TOTAL	83	\$447,859	7	\$67,427	119	\$61,551	77	\$1,434,431
AVERAGE CLAIM COST BY RESULT		\$5,396				\$517		
YTD 2003	2	\$2,643	1	\$259	15	\$6,891	2	\$31,625
AVERAGE CLAIM COST BY RESULT		\$1,322				\$459		

### *Litigation Expense*

While many factors affect overall litigation costs, Idaho Code §72-334, the “60 day” rule, has contributed to substantial litigation savings since its passage in 1997. The “60 day” rule requires a party to file a Notice of Intent with supporting documentation with the ISIF sixty days prior to filing a Complaint.

The ISIF has sixty days to review, deny, or possibly settle a claim in-house. At the conclusion of sixty days the surety or claimant may file a Complaint Against the ISIF. Upon receipt of a Complaint, the ISIF will refer the claim to counsel.

Litigation costs are expended to fourteen sub-object codes as bills are paid during a claim's adjudicated life. Once the adjudication process is completed, a report is submitted to the Industrial Commission reporting all litigation costs incurred during the life of the claim. Total annual litigation expenditures continue to decline after reaching highs of \$800,000 in calendar year 1995.

LITIGATION EXPENDITURES							
QUARTER & CALENDAR YEAR REPORT							
Litigation Expenditures	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	2003	2002	2002
	2003	2003	2003	2003	YTD	YTD	Total
7090-01 Attorney Fees	\$41,791	\$55,080			\$96,871	\$95,896	\$198,341
7090-02 Costs & Expenses	585	1,910			2,495	3,491	6,844
7090-03 Medical/Vocational Reprt	246	352			599	386	1,586
7090-04 Deposition Costs	1,524	4,732			6,255	9,083	16,698
7090-05 Investigations	8,597	4,941			13,538	6,324	8,905
7090-06 Research or Briefs	-	-			-	-	-
7090-07 Appeal Attorney Fees	2,684	1,762			4,446	7,391	13,513
7090-08 Appeal Costs & Expenses	3	19			23	82	126
7090-12 Medical Expenses (IME)	-	-			-	1,000	10,147
7090-13 Rehabilitation	1,156	3,973			5,129	3,521	10,135
7090-14 Adjuster Expenses	2,305	5,858			8,163	5,259	11,623
7090-15 Refund	-	-			-	-	-
Total Litigation Expenditures	\$58,891	\$78,628			\$137,519	\$132,432	\$277,919

## ADMINISTRATIVE OPERATIONS

### Revenue

The Fund was dependent on a levy system for revenue funding prior to July 1, 1997. The levy was a percent of certain paid benefits assessed to insurance companies and self-insured employers on individual claims at the time of claim closure. Over time the levy was inadequate to provide the sustained revenue needs of the Fund.

Due to the prolonged inability of the levy to generate adequate funding, the workers' compensation industry and the Industrial Special Indemnity Fund drafted legislation and changed the funding method. As a result, the Idaho State Legislature passed a new funding formula based on an annual assessment of two times the Fund's fiscal year expenditures less cash available. The assessment is paid semi-annually by sureties, self-insured employers and the State Insurance Fund based on their pro-rata assessment share.

<b>ASSESSMENT FORMULA BASED ON FISCAL YEAR</b>							
Fiscal Year	1997	1998	1999	2000	2001	2002	2003
Total Expenditures FY	\$2,437,624	\$2,914,649	\$3,166,801	\$3,952,194	\$4,489,865	\$4,588,902	\$4,902,891
Cash Available As of 6/30	1,303,876	504,787	2,084,943	3,218,756	3,547,992	4,613,314	5,208,312
Assessment	\$3,571,372	\$5,324,511	\$4,248,659	\$4,685,633	\$5,431,738	\$4,564,490	\$4,597,470

ASSESSMENT TIME LINE				
Assessment Date	Total Assessment	Indemnity Period	Due Date	Payment Amount
June 30, 1997	\$3,571,372	7-1-97 -->12-31-97 1-1-98 --> 6-30-98	Apr-98 Sep-98	\$1,785,686 \$1,785,686
June 30, 1998	\$5,324,511	7-1-98 -->12-31-98 1-1-99 --> 6-30-99	Apr-99 Sep-99	\$2,662,256 \$2,662,256
June 30, 1999	\$4,248,659	7-1-99 -->12-31-99 1-1-00 --> 6-30-00	Apr-00 Sep-00	\$2,124,330 \$2,124,330
June 30, 2000	\$4,685,633	7-1-00 -->12-31-00 1-1-01 --> 6-30-01	Apr-01 Sep-01	\$2,342,817 \$2,342,817
June 30, 2001	\$5,431,738	7-1-01 -->12-31-01 1-1-02 --> 6-30-02	Apr-02 Sep-02	\$2,715,869 \$2,715,869
June 30, 2002	\$4,564,490	7-1-02-->12-31-02 1-1-03--> 6-30-03	Apr-03 Sep-03	\$2,282,245 \$2,282,245
June 30, 2003	\$4,597,470	7-1-02-->12-31-02 1-1-03--> 6-30-03	Apr-03 Sep-03	\$2,298,735 \$2,298,735

Without a change in revenue funding, the Fund would have been unable to satisfy its obligations early in 1998. The current revenue system creates a method of funding that is equitable, accountable, and certain.

### *Expenditure*

The Fund's administrative operating expenditures include salaries for three full time employees and general office expense. Operational expenditures for 2003 year to date are \$124,768. Total operational expenditures for calendar year 2002 were \$230,819.

Benefit expense reflects all benefits paid in either lump sum, arrearage or monthly annuitant payments.

Total litigation costs, which include all costs associated with claims adjudication, such as attorney fees and costs, depositions, vocational rehabilitation and investigation, have continued to decline. This is in contrast to seven years prior when total litigation costs exceeded \$800,000. In addition to the significant cost savings, the average number of litigation days per claim has also decreased. Both of these impacts are largely the result of the "60 day" rule.



<b>REVENUE - EXPENDITURE REPORT</b>							
CALENDAR YEAR 2003							
<b>Revenue</b>	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	2003 YTD	2002 YTD	2002 Total
Beginning Cash Available	\$5,564,454	\$4,847,356			\$5,564,454	\$4,600,299	\$4,600,299
Levy/Interest	-	-			-	-	-
Assessment/Interest	56,625	2,420,389			2,477,014	\$3,080,356	6,101,231
Total Cash Available	<u>\$5,621,079</u>	<u>\$7,267,745</u>			<u>\$8,041,469</u>	<u>\$7,680,655</u>	<u>\$10,701,530</u>
<b>Expenditure</b>							
Administrative	\$45,608	\$79,160			\$124,768	\$118,061	\$230,819
Benefits	669,225	1,901,644			2,570,869	2,808,711	4,628,337
Litigation	58,891	78,628			137,519	140,569	277,919
Levy Refund	-	-			-	-	-
Total Expenditures	<u>\$773,724</u>	<u>\$2,059,433</u>			<u>\$2,833,157</u>	<u>\$3,067,342</u>	<u>\$5,137,076</u>
Encumbered							
<b>Calendar Year 2003</b>							
Ending Cash Balance	\$4,847,356	\$5,208,312			\$5,208,312	\$4,613,314	\$5,564,454

<b>REVENUE - EXPENDITURE REPORT</b>					
FISCAL YEAR 2003					
<b>Revenue</b>	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	2003 Total
Beginning Cash Available	\$4,613,314	\$6,420,688	\$5,564,454	\$4,847,356	\$4,613,314
Levy/Interest	-	-	-	-	-
Assessment/Interest	2,525,546	495,328	56,625	2,420,389	5,497,889
Total Cash Available	<u>\$7,138,860</u>	<u>\$6,916,016</u>	<u>\$5,621,079</u>	<u>\$7,267,745</u>	<u>\$10,111,203</u>
<b>Expenditure</b>					
Administrative	\$54,869	\$57,889	\$45,608	\$79,160	\$237,526
Benefits	590,460	1,229,166	669,225	1,901,644	4,390,495
Litigation	72,994	64,356	58,891	78,628	274,869
Levy Refund	-	-	-	-	-
Total Expenditures	<u>\$718,323</u>	<u>\$1,351,411</u>	<u>\$773,724</u>	<u>\$2,059,433</u>	<u>\$4,902,891</u>
Encumbered	151	(151)			-
<b>Fiscal Year 2003</b>					
Ending Cash Balance	\$6,420,688	\$5,564,454	\$4,847,356	\$5,208,312	\$5,208,312